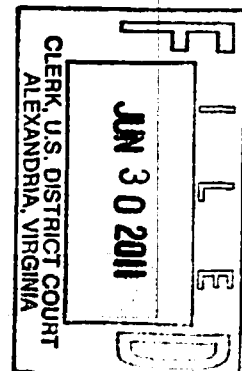


JUNE 30, 2011 FORFEITURE HEARING

Lee Farkas Bench Book

1

United States of America v. Lee Bentley Farkas
1:10-CR-200-LMB



Requested Money Judgment

2

A: \$19,869,097.47 Due From Shareholder
Accounts

B: \$15,000,000.00 Paydown of Due From
Shareholder Account

C: \$7,330,500.00 Fraudulent Loans

TOTAL: \$42,199,597.47

Government's Burden

3

- 18 U.S.C. § 982 (2): “The Court...shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.” (Tab 1)
- Section (2) refers to “proceeds the person obtained” whereas other sections refer to “gross proceeds” or simply “proceeds”

Government's Burden, Ctd.

4

- “[T]he United States must establish the nexus between the offense and the property subject to forfeiture by a preponderance of the evidence. *United States v. Herder*, 594 F.3d 352, 364 (4th Cir. 2010). In this case, the United States must show that the Defendant’s wire and bank fraud led to the Defendant’s obtaining proceeds in a certain amount, and that amount is then the amount of the money judgment.” United States’ Motion for Prelim. Order, p. 4.

TBW Operations Prior to December 2003

5

- “Plan B” scheme alleged to have begun in December 2003
- Audited financials as of April 30, 2003:
 - \$13,834,000.00 retained earnings
 - \$36,046,000.00 total stockholder equity
 - \$7,562,000.00 “various related party notes receivable”
 - \$964,000.00 due to related parties

TBW Cash Flow from Legitimate Operations 2002 - 2009

6

1. Mortgage servicing revenue
2. Interest income
3. Loan sale revenue

A. \$19,869,097.47 Due From Shareholder

7

- Government requests final amounts Farkas “owed” TBW when TBW ceased operations
- Not traced to receipt of any funds from Colonial Bank or Ocala Funding
- Multitude of Reclassifications, Transfers and Other Entries not supported by any evidence or testimony from TBW accounting staff
- Review of General Ledger entries demonstrate fallacy of Government position (Tab 2)

B. \$15,000,000.00 “Paydown”

8

- Farkas borrows \$33,000,000.00 from Colonial to repurchase warrants from RLI
- Later, Farkas repays \$33,000,000.00 in full with loan from hedge fund
- \$15,000,000 paydown of due from shareholder related to this larger transaction
- Evidence uncontroverted that \$15,000,000 returned within 24 hours (Tabs 3-5)

C. \$7,330,500.00 Fraudulent Loans

9

- Gov't Ex. 19-124 (Tab 6) shows loan dates beginning in October, 2003
- Inclusion of loans on collateral spreadsheets submitted to Colonial Bank in 2009 did not result in Farkas obtaining any additional funds from Colonial Bank

Substitute Assets - Government's Burden

10

- **21 U.S.C. § 853(p) (Tab 7)**

If any property, “as a result of any act or omission of the defendant— (A) cannot be located upon the exercise of due diligence; (B) has been transferred or sold to, or deposited with, a third party;... or (E) has been commingled with other property which cannot be divided without difficulty...the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E)...”

Substitute Assets – Properties Identified

11

- 13 real properties with estimated value of \$5,806,533.00
- 1 note with estimated value of \$190,000.00
- 11 autos with estimated value of \$440,500.00

TOTAL: \$6,437,033.00

Farkas Homestead

12

- 480 SW 87th Place, Ocala, FL 34476
 - Primary residence well before 2002
 - Sold with permission of Court with proceeds reinvested in 2301 Solar Plaza Drive, Ft. Lauderdale, FL and 1222 SE 7th Street, Ocala, FL

Stay Pending Appeal

13

- Fed. R. Crim. P. 32.3(d) (Tab 8)

“If a defendant appeals from a conviction or an order of forfeiture, the court may stay the order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review.”

The End

§ 982. Criminal forfeiture, 18 USCA § 982

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated

Title 18. Crimes and Criminal Procedure (Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 46. Forfeiture (Refs & Annos)

18 U.S.C.A. § 982

§ 982. Criminal forfeiture

Effective: December 26, 2007
Currentness

(a)(1) The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property.

(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate--

(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or

(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.

(3) The court, in imposing a sentence on a person convicted of an offense under--

(A) section 666(a)(1) (relating to Federal program fraud);

(B) section 1001 (relating to fraud and false statements);

(C) section 1031 (relating to major fraud against the United States);

(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

(E) section 1341 (relating to mail fraud); or

(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the

Next

§ 982. Criminal forfeiture, 18 USCA § 982

person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.

(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate--

(A) section 511 (altering or removing motor vehicle identification numbers);

(B) section 553 (importing or exporting stolen motor vehicles);

(C) section 2119 (armed robbery of automobiles);

(D) section 2312 (transporting stolen motor vehicles in interstate commerce); or

(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce); shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.

(6)(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and Nationality Act or section 555, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law--

(i) any conveyance, including any vessel, vehicle, or aircraft used in the commission of the offense of which the person is convicted; and

(ii) any property real or personal--

(I) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of the offense of which the person is convicted; or

(II) that is used to facilitate, or is intended to be used to facilitate, the commission of the offense of which the person is convicted.

(B) The court, in imposing sentence on a person described in subparagraph (A), shall order that the person forfeit to the United States all property described in that subparagraph.

(7) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

(8) The court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property--

(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.

§ 982. Criminal forfeiture, 18 USCA § 982

(b)(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(2) The substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of \$100,000 or more in any twelve month period.

Credits

(Added Pub.L. 99-570, Title I, § 1366(a), Oct. 27, 1986, 100 Stat. 3707-39, and amended Pub.L. 100-690, Title VI, §§ 6463(c), 6464, Nov. 18, 1988, 102 Stat. 4374, 4375; Pub.L. 101-73, Title IX, § 963(c), Aug. 9, 1989, 103 Stat. 504; Pub.L. 101-647, Title XIV, §§ 1401, 1403, Title XXV, § 2525(b), Nov. 29, 1990, 104 Stat. 4835, 4874; Pub.L. 102-393, Title VI, § 638(e), Oct. 6, 1992, 106 Stat. 1788; Pub.L. 102-519, Title I, § 104(b), Oct. 25, 1992, 106 Stat. 3385; Pub.L. 102-550, Title XV, § 1512(c), Oct. 28, 1992, 106 Stat. 4058; Pub.L. 103-322, Title XXXIII, § 330011(s)(1), Sept. 13, 1994, 108 Stat. 2145; Pub.L. 104-191, Title II, § 249(a), (b), Aug. 21, 1996, 110 Stat. 2020; Pub.L. 104-208, Div. C, Title II, § 217, Sept. 30, 1996, 110 Stat. 3009-573; Pub.L. 105-184, § 2, June 23, 1998, 112 Stat. 520; Pub.L. 105-318, § 6(a), Oct. 30, 1998, 112 Stat. 3010; Pub.L. 106-185, § 18(b), Apr. 25, 2000, 114 Stat. 223; Pub.L. 107-56, Title III, § 372(b)(2), Oct. 26, 2001, 115 Stat. 339; Pub.L. 107-273, Div. B, Title IV, § 4002(b)(10), Nov. 2, 2002, 116 Stat. 1808; Pub.L. 109-295, Title V, § 551(c), Oct. 4, 2006, 120 Stat. 1390; Pub.L. 110-161, Div. E, Title V, § 553(b), Dec. 26, 2007, 121 Stat. 2082.)

Editors' Notes

AMENDMENT OF SUBSEC. (A)(3)

<Pub.L. 111-203, Title III, §§ 351, 377(4), July 21, 2010, 124 Stat. 1546, 1569, provided that, effective on the transfer date [see 12 U.S.C.A. § 5411 for definition of "transfer date"], subsec. (a)(3) is amended-->

<(A) by striking "Resolution Trust Corporation,"; and>

<(B) by striking "or the Office of Thrift Supervision">

Notes of Decisions (83)

Current through P.L. 112-17 approved 6-1-11

End of Document

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Detail General Ledger - Standard

Page: 1 of 9
 Report: 01620.rpt
 Company: TBWMC

Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jrnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance
Acct:	20750		Due From 3201 (MOSAW)		Sub:	00-00000-0000000000				
						Default				
					Period	01-03 Total	355,873.06	0.00	0.00	355,873.06
					Period	02-03 Total	355,873.06	0.00	0.00	355,873.06
					Period	03-03 Total	355,873.06	0.00	0.00	355,873.06
					Period	04-03 Total	355,873.06	0.00	0.00	355,873.06
					Period	05-03 Total	355,873.06	0.00	0.00	355,873.06
					Period	06-03 Total	355,873.06	0.00	0.00	355,873.06
^	GJ	GL	010661	INT ACC	11/30/2002	Interest Accrual		61,525.98	0.00	
					Period	07-03 Total	355,873.06	61,525.98	0.00	417,399.04
^	GJ	GL	010688	12/30	12/30/2002	dep Mosaw repaymnt		0.00	30,000.00	
^	GJ	GL	011071	12/31/02	12/31/2002	Interest 12/02		2,744.54	0.00	
					Period	08-03 Total	417,399.04	2,744.54	30,000.00	390,143.58
^	GJ	GL	011124	1/31/03	1/31/2003	Interest 1/03		2,650.84	0.00	
					Period	09-03 Total	390,143.58	2,650.84	0.00	392,794.42
^	GJ	GL	011575	2/28/03	2/28/2003	Interest 2/03		2,668.85	0.00	
					Period	10-03 Total	392,794.42	2,668.85	0.00	395,463.27
^	GJ	GL	012052	3/31/03	3/31/2003	adj to schedule		2,426.95	0.00	
					Period	11-03 Total	395,463.27	2,426.95	0.00	397,890.22
^	GJ	GL	012503	4/30/03	4/30/2003	Adj to schedule		2,703.47	0.00	
					Period	12-03 Total	397,890.22	2,703.47	0.00	400,593.69
^	GJ	GL	013331	5/31/03	5/31/2003	adj to schedule		2,634.04	0.00	
					Period	01-04 Total	400,593.69	2,634.04	0.00	403,227.73
^	GJ	GL	013521	6/30/03	6/30/2003	adj to schedule		2,739.74	0.00	
					Period	02-04 Total	403,227.73	2,739.74	0.00	405,967.47
^	GJ	GL	013918	7/31/03	7/31/2003	adj to schedule		2,669.38	0.00	
					Period	03-04 Total	405,967.47	2,669.38	0.00	408,636.85
^	GJ	GL	014401	8/31/03	8/31/2003	mo entry		2,776.49	0.00	
					Period	04-04 Total	408,636.85	2,776.49	0.00	411,413.34
^	GJ	GL	014759	9/30/03	9/30/2003	Mo entry		2,795.36	0.00	
					Period	05-04 Total	411,413.34	2,795.36	0.00	414,208.70
^	GJ	GL	015171	SEE OCT NK	11/5/2003	SEE OCT NOTEBOOK SECTION H		2,723.56	0.00	

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Detail General Ledger - Standard

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 Report: 01620.rpt
 Company: TBWMC

Periods: 01-03 Through 05-10 As of: 5/27/2011

Ledger ID: ACTUAL

Jrnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	06-04	Total	414,208.70	2,723.56	0.00	416,932.26
^	GJ	GL	015460	SEE NOV NB	12/2/2003	SEE NOV NOTEBOOK SECT H		2,832.85	0.00		
	AP	VO	125399	10-25-3 stmt	320323	11/7/2003	James Moore #600658 1	150.00	0.00		
					Period	07-04	Total	416,932.26	2,982.85	0.00	419,915.11
^	GJ	GL	015887	SEE DEC NB	1/7/2004	SEE DEC NOTEBOOK H-10		2,761.09	0.00		
					Period	08-04	Total	419,915.11	2,761.09	0.00	422,676.20
^	GJ	GL	016210	SEE JAN NK	2/4/2004	SEE JAN NOTE BOOK H-11		2,871.88	0.00		
					Period	09-04	Total	422,676.20	2,871.88	0.00	425,548.08
^	GJ	GL	016551	SEE FEB NB	3/1/2004	SEE FEB NOTEBOOK H-3		2,891.40	0.00		
					Period	10-04	Total	425,548.08	2,891.40	0.00	428,439.48
	GJ	GL	016875	SEE MAR NB	3/23/2004	SEE MAR NOTEBOOK H-3		2,723.23	0.00		
					Period	11-04	Total	428,439.48	2,723.23	0.00	431,162.71
	GJ	GL	017368	RECLASS	4/28/2004	reclass from 20210		661.95	0.00		
	GJ	GL	017368	RECLASS	4/28/2004	reclass from 20210		696.22	0.00		
	GJ	GL	017331	SEE APR NB	4/26/2004	SEE APRIL NOTEBOOK H-3		2,929.54	0.00		
	AP	VO	143647	4-19-4 stmt	366590	4/28/2004	Amex Centurion Coda Roberson	1,391.50	0.00		
					Period	12-04	Total	431,162.71	5,679.21	0.00	436,841.92
^	GJ	GL	017864	MAY NB	6/3/2004	SEE MAY NOTEBOOK H-4		2,872.39	0.00		
					Period	01-05	Total	436,841.92	2,872.39	0.00	439,714.31
^	GJ	GL	018562	JUN SECT H	7/21/2004	JUNE INTEREST		2,987.65	0.00		
					Period	02-05	Total	439,714.31	2,987.65	0.00	442,701.96
^	GJ	GL	018819	JULY SECTH	8/9/2004	July interest		2,910.92	0.00		
	AP	VO	152253	6-23-4 stmt	390092	7/12/2004	Bankcard Ctr Coda 6-23-4	3,706.50	0.00		
					Period	03-05	Total	442,701.96	6,617.42	0.00	449,319.38
	GJ	GL	019129	AUG SEC I	8/26/2004	accrue aug interest		3,052.91	0.00		
					Period	04-05	Total	449,319.38	3,052.91	0.00	452,372.29
^	GJ	GL	020066	CORR	10/21/2004	correct batch #019595		0.00	2,875.36		
	GJ	GL	019595	SEP SECT I	9/28/2004	to accrue Sept interest		5,949.01	0.00		
					Period	05-05	Total	452,372.29	5,949.01	2,875.36	455,445.94
^	GJ	GL	020179	OCT SEC I	11/1/2004	to accrue oct interest		2,994.71	0.00		
					Period	06-05	Total	455,445.94	2,994.71	0.00	458,440.65
^	GJ	GL	020591	NOV SEC I	12/2/2004	accrue november interest		3,114.88	0.00		

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Detail General Ledger - Standard

Page: 3 of 9
 Report: 01620.rpt
 Company: TBWMC

Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jml	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	07-05	Total	458,440.65	3,114.88	0.00	461,555.53
^	GJ	GL	021133	DEC SEC I	1/11/2005	accrue Dec interest		3,034.89	0.00		
					Period	08-05	Total	461,555.53	3,034.89	0.00	464,590.42
^	GJ	GL	021484	JAN SEC I	2/3/2005	ACCRUE JAN 05 INT 20750		3,156.67	0.00		
					Period	09-05	Total	464,590.42	3,156.67	0.00	467,747.09
^	GJ	GL	021911	FEB SEC I	3/4/2005	ACCRUE FEB 05 INTEREST 20750		3,178.12	0.00		
					Period	10-05	Total	467,747.09	3,178.12	0.00	470,925.21
^	GJ	GL	022317	MAR SEC I	4/4/2005	Accrue Mar 05 Int 20750		2,890.06	0.00		
					Period	11-05	Total	470,925.21	2,890.06	0.00	473,815.27
^	GJ	GL	022790	APR SEC I	5/2/2005	Accrue Apr 05 Int 20750		3,219.35	0.00		
					Period	12-05	Total	473,815.27	3,219.35	0.00	477,034.62
^	GJ	GL	023813	MAY SEC I	6/30/2005	Accrue May 05 interest 20750		3,241.22	0.00		
					Period	01-06	Total	477,034.62	3,241.22	0.00	480,275.84
^	GJ	GL	024150	JUN SEC I	7/21/2005	Accrue Jun 05 interest 20750		3,157.98	0.00		
					Period	02-06	Total	480,275.84	3,157.98	0.00	483,433.82
^	GJ	GL	024500		8/11/2005	reconcile 3201atFYE per Jill		0.00	464,590.42		
^	GJ	GL	024534	JUL SEC I	8/12/2005	Accrue Jul 05 interest 20750		3,284.70	0.00		
					Period	03-06	Total	483,433.82	3,284.70	464,590.42	22,128.10
^	GJ	GL	025105	AUG SEC I	9/14/2005	Accrue Aug 05 interest 20750		150.35	0.00		
					Period	04-06	Total	22,128.10	150.35	0.00	22,278.45
^	GJ	GL	025459	RECLASS	10/5/2005	Reclass sub to main 20750		10,475.53	0.00		
^	GJ	GL	025620	SEP SEC I	10/17/2005	Accrue Sep 05 interest 20750		146.49	0.00		
					Period	05-06	Total	22,278.45	10,622.02	0.00	32,900.47
^	GJ	GL	026150	OCT SEC I	11/9/2005	Accrue Oct 05 interest 20750		223.54	0.00		
	AP	VO	202015	1085	527786	10/20/2005	Nichols Pro	600.00	0.00		
					Period	06-06	Total	32,900.47	823.54	0.00	33,724.01
^	GJ	GL	026736	NOV SEC I	12/15/2005	Accrue Nov 05 interest 20750		221.75	0.00		
					Period	07-06	Total	33,724.01	221.75	0.00	33,945.76
^	GJ	GL	026994	DEC SEC I	1/4/2006	Accrue Dec 05 interest 20750		230.65	0.00		
					Period	08-06	Total	33,945.76	230.65	0.00	34,176.41
^	GJ	GL	027750		1/31/2006	1/31/2006	Accrue Jan 05 interest 20750	232.21	0.00		

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Detail General Ledger - Standard

Page: 4 of 9
 Report: 01620.rpt
 Company: TBWMC

Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jrnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	09-06	Total	34,176.41	232.21	0.00	34,408.62
^	GJ	GL	028506	FEB SEC Z	2/28/2006	Accrue Feb 06 interest 20750		211.17	0.00		
					Period	10-06	Total	34,408.62	211.17	0.00	34,619.79
^	GJ	GL	029009	MAR SEC I	4/25/2006	Accrue Mar 06 interest 20750		235.22	0.00		
					Period	11-06	Total	34,619.79	235.22	0.00	34,855.01
^	GJ	GL	029625	APR SEC I	5/25/2006	Accrue Apr 06 interest 20750		229.18	0.00		
					Period	12-06	Total	34,855.01	229.18	0.00	35,084.19
					Period	01-07	Total	35,084.19	0.00	0.00	35,084.19
^	GJ	GL	031244	JUN SEC I	6/30/2006	Accrue Jun 06 interest 20750		232.26	0.00		
^	GJ	GL	031242	MAY SEC I	5/31/2006	Accrue May 06 interest 20750		238.38	0.00		
					Period	02-07	Total	35,084.19	470.64	0.00	35,554.83
^	GJ	GL	031593	JULY SEC I	7/31/2006	Accrue July 06 interest 20750		241.58	0.00		
^	GJ	GL	031605	JULY SEC I	7/31/2006	Accrue July 06 interest 20750		241.58	0.00		
					Period	03-07	Total	35,554.83	483.16	0.00	36,037.99
^	GJ	GL	032071	AUG SEC I	8/31/2006	Accrue Aug 06 interest 20750		243.22	0.00		
^	GJ	GL	032070	REVERSE	8/31/2006	Reverse B#031605		0.00	241.58		
					Period	04-07	Total	36,037.99	243.22	241.58	36,039.63
	GJ	GL	032068	REVERSE	8/31/2006	Reverse B#031605		0.00	241.58		
	GJ	GL	032069	REVERSE	8/31/2006	Reverse B#032068		241.58	0.00		
^	GJ	GL	032748	SEPT SEC I	9/30/2006	Accrue Sept 06 interest 20750		236.97	0.00		
					Period	05-07	Total	36,039.63	478.55	241.58	36,276.60
^	GJ	GL	033403	OCT SEC I	10/31/2006	Accrue Oct 06 interest 20750		246.48	0.00		
					Period	06-07	Total	36,276.60	246.48	0.00	36,523.08
^	GJ	GL	034104	NOV SEC I	11/30/2006	Accrue Nov 06 interest 20750		240.15	0.00		
					Period	07-07	Total	36,523.08	240.15	0.00	36,763.23
^	GJ	GL	034696	DEC SEC I	12/31/2006	Accrue Dec 06 interest 20750		249.79	0.00		
					Period	08-07	Total	36,763.23	249.79	0.00	37,013.02
^	GJ	GL	035378	JAN SEC I	1/31/2007	Accrue Jan 07 interest 20750		251.49	0.00		
					Period	09-07	Total	37,013.02	251.49	0.00	37,264.51
^	GJ	GL	036031	FEB SEC I	2/28/2007	Accrue Feb 07 interest 20750		228.69	0.00		
					Period	10-07	Total	37,264.51	228.69	0.00	37,493.20
^	GJ	GL	036677	MAR SEC I	3/31/2007	Accrue Mar 07 interest 20750		254.75	0.00		

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Detail General Ledger - Standard

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Periods: 01-03 Through 05-10 As of: 5/27/2011

Ledger ID: ACTUAL

Jml	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	11-07	Total	37,493.20	254.75	0.00	37,747.95
^	GJ	GL	037384	APR SEC I	4/30/2007	Accrue Apr 07 interest 20750		248.21	0.00		
					Period	12-07	Total	37,747.95	248.21	0.00	37,996.16
^	GJ	GL	038421	MAY SEC I	5/31/2007	Accrue May 07 interest 20750		258.17	0.00		
					Period	01-08	Total	37,996.16	258.17	0.00	38,254.33
^	GJ	GL	038900	JUN SEC I	6/30/2007	Accrue June 07 interest 20750		251.54	0.00		
					Period	02-08	Total	38,254.33	251.54	0.00	38,505.87
^	GJ	GL	039223	JULY SEC I	7/31/2007	Accrue July 07 interest 20750		261.63	0.00		
					Period	03-08	Total	38,505.87	261.63	0.00	38,767.50
	GJ	GL	038820	8/22/2007	8/22/2007	Trans from Wachovia		33,500.00	0.00		
	GJ	GL	039075	8/22/2007	8/22/2007	Reclass to 3201 GL22150		0.00	33,500.00		
^	GJ	GL	039790	AUG SEC I	8/31/2007	Accrue Aug 07 interest 20750		263.41	0.00		
					Period	04-08	Total	38,767.50	33,763.41	33,500.00	39,030.91
^	GJ	GL	040166	SEP SEC I	9/30/2007	Accrue Sep 07 interest 20750		256.64	0.00		
					Period	05-08	Total	39,030.91	256.64	0.00	39,287.55
^	GJ	GL	040730	OCT SEC I	10/31/2007	Accrue Oct 07 interest 20750		266.94	0.00		
					Period	06-08	Total	39,287.55	266.94	0.00	39,554.49
^	GJ	GL	041458	NOV SEC I	11/30/2007	Accrue Nov 07 interest 20750		260.08	0.00		
					Period	07-08	Total	39,554.49	260.08	0.00	39,814.57
^	GJ	GL	042058	DEC SEC I	12/31/2007	Accrue Dec 07 interest 20750		270.52	0.00		
					Period	08-08	Total	39,814.57	270.52	0.00	40,085.09
^	GJ	GL	042959	JAN SEC I	1/31/2008	Accrue Jan 08 interest 20750		272.36	0.00		
					Period	09-08	Total	40,085.09	272.36	0.00	40,357.45
^	GJ	GL	043478	FEB SEC I	2/29/2008	Accrue Feb 08 interest 20750		256.52	0.00		
					Period	10-08	Total	40,357.45	256.52	0.00	40,613.97
^	GJ	GL	043999	MAR SEC I	3/31/2008	Accrue Mar 08 interest 20750		275.95	0.00		
					Period	11-08	Total	40,613.97	275.95	0.00	40,889.92
^	GJ	GL	044480	APR SEC I	4/30/2008	Accrue Apr 08 interest 20750		268.87	0.00		
					Period	12-08	Total	40,889.92	268.87	0.00	41,158.79
	GJ	GL	044273	ck 1004	05-09-08	5/9/2008	3201 Partnership	0.00	40,889.92		
^	GJ	GL	045682		MAY SECT I	5/31/2008	Accrue May 08 interest 20750	279.65	0.00		

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Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jrnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	01-09	Total	41,158.79	279.65	40,889.92	548.52
GJ	GL	044830	ck 1014	06-05-08	6/5/2008	3201 Partnership		0.00	268.87		
^ GJ	GL	045984		JUN SECT I	6/30/2008	Accrue June 08 interest 20750		3.61	0.00		
^ GJ	GL	046078		JUN SECT I	6/30/2008	Adjust 20750 to zero		0.00	283.26		
					Period	02-09	Total	548.52	3.61	552.13	0.00
					Period	03-09	Total	0.00	0.00	0.00	0.00
					Period	04-09	Total	0.00	0.00	0.00	0.00
^ GJ	GL	047288		RECLASS	9/30/2008	Recl FloridaDesign101GaragWork		5,925.00	0.00		
					Period	05-09	Total	0.00	5,925.00	0.00	5,925.00
GJ	GL	047423	ck 1064	10-7-8	10/7/2008	3201 Partnership		0.00	5,965.26		
^ GJ	GL	048036		OCT SECT I	10/31/2008	Accrue Oct 08 interest 20750		40.26	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		180.00	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		960.00	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		12,351.08	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		14,708.11	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		33,503.29	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Martin Palmer Constr - Maslow		10,932.05	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Melville Electric - Maslow		4,815.00	0.00		
^ GJ	GL	048016		RECLASS	10/31/2008	Dove Homes - Maslow		50,000.00	0.00		
^ GJ	GL	048230		RECLASS	10/31/2008	Florida Design - Maslow		10,752.50	0.00		
^ GJ	GL	048230		RECLASS	10/31/2008	N&N Furniture - Maslow		25,151.09	0.00		
^ GJ	GL	048309		RECLASS	10/31/2008	Recl N&N Furniture-Maslow		0.00	25,151.09		
^ GJ	GL	048309		REVERSE	10/31/2008	Rev B#048230 FloridaDesignPlat		0.00	10,752.50		
					Period	06-09	Total	5,925.00	163,393.38	41,868.85	127,449.53
^ GJ	GL	048644		NOV SECT I	11/30/2008	Accrue Nov 08 interest 20750		838.02	0.00		
					Period	07-09	Total	127,449.53	838.02	0.00	128,287.55
^ GJ	GL	049209		DEC SECT I	12/31/2008	Accrue Dec 08 interest 20750		871.65	0.00		
					Period	08-09	Total	128,287.55	871.65	0.00	129,159.20
^ GJ	GL	049919		JAN SECT I	1/31/2009	Accrue Jan 09 interest 20750		877.57	0.00		
^ GJ	GL	050390	Re #976797	RECLASS	1/31/2009	FloridaDesign #3869		5,332.50	0.00		
^ GJ	GL	050390	Re #991176	RECLASS	1/31/2009	FloridaDesign #3879		1,965.36	0.00		
					Period	09-09	Total	129,159.20	8,175.43	0.00	137,334.63

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Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance
^	GJ	GL	050593		FEB SECT I	2/28/2009		842.82	0.00	
^	GJ	GL	050546		RECLASS	2/28/2009		302,237.00	0.00	
^	GJ	GL	050560	JE 050546	RECLASS	2/28/2009		0.00	302,237.00	
					Period	10-09	Total	137,334.63	303,079.82	302,237.00
^	GJ	GL	051141		MAR SECT I	3/31/2009		938.85	0.00	
					Period	11-09	Total	138,177.45	938.85	0.00
					Period	12-09	Total	139,116.30	0.00	0.00
^	GJ	GL	051910		APR SECT I	4/30/2009		914.74	0.00	
					Period	01-10	Total	139,116.30	914.74	0.00
^	GJ	GL	052387		MAY SECT I	5/31/2009		951.44	0.00	
					Period	02-10	Total	140,031.04	951.44	0.00
^	GJ	GL	053024		JUN SECT I	6/30/2009		927.01	0.00	
					Period	03-10	Total	140,982.48	927.01	0.00
^	GJ	GL	053687		JUL SECT I	7/31/2009		964.21	0.00	
					Period	04-10	Total	141,909.49	964.21	0.00
					Period	05-10	Total	142,873.70	0.00	0.00
Acct:	20750			Due From 3201 (MOSAW)	Sub:	00-10100-0000000000			Ocala, FL (CDF)-Undistributed	
					Period	01-06	Total	0.00	0.00	0.00
					Period	02-06	Total	0.00	0.00	0.00
					Period	03-06	Total	0.00	0.00	0.00
					Period	04-06	Total	0.00	0.00	0.00
^	GJ	GL	025459		RECLASS	10/5/2005		0.00	10,475.53	
	AP	VO	198567	9005	518296	9/18/2005		10,475.53	0.00	
					Period	05-06	Total	0.00	10,475.53	10,475.53
					Period	06-06	Total	0.00	0.00	0.00
					Period	07-06	Total	0.00	0.00	0.00
					Period	08-06	Total	0.00	0.00	0.00
					Period	09-06	Total	0.00	0.00	0.00
					Period	10-06	Total	0.00	0.00	0.00
					Period	11-06	Total	0.00	0.00	0.00
					Period	12-06	Total	0.00	0.00	0.00

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 Company: TBWMC

Periods: 01-03 Through 05-10 As of: 5/27/2011 Ledger ID: ACTUAL

Jrnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance
					Period	01-07	Total	0.00	0.00	0.00
					Period	02-07	Total	0.00	0.00	0.00
					Period	03-07	Total	0.00	0.00	0.00
					Period	04-07	Total	0.00	0.00	0.00
					Period	05-07	Total	0.00	0.00	0.00
^ GJ	GL	033099		RECLASS	10/30/2006	3201 Partnership		0.00	54,993.46	
AP	VO	243227	Nov 2006	669939	10/30/2006	3201 Partnership		54,993.46	0.00	
					Period	06-07	Total	0.00	54,993.46	54,993.46
					Period	07-07	Total	0.00	0.00	0.00
					Period	08-07	Total	0.00	0.00	0.00
					Period	09-07	Total	0.00	0.00	0.00
					Period	10-07	Total	0.00	0.00	0.00
					Period	11-07	Total	0.00	0.00	0.00
					Period	12-07	Total	0.00	0.00	0.00
					Period	01-08	Total	0.00	0.00	0.00
					Period	02-08	Total	0.00	0.00	0.00
					Period	03-08	Total	0.00	0.00	0.00
					Period	04-08	Total	0.00	0.00	0.00
					Period	05-08	Total	0.00	0.00	0.00
					Period	06-08	Total	0.00	0.00	0.00
					Period	07-08	Total	0.00	0.00	0.00
					Period	08-08	Total	0.00	0.00	0.00
					Period	09-08	Total	0.00	0.00	0.00
					Period	10-08	Total	0.00	0.00	0.00
					Period	11-08	Total	0.00	0.00	0.00
					Period	12-08	Total	0.00	0.00	0.00
					Period	01-09	Total	0.00	0.00	0.00
					Period	02-09	Total	0.00	0.00	0.00
					Period	03-09	Total	0.00	0.00	0.00

Detail General Ledger - Standard

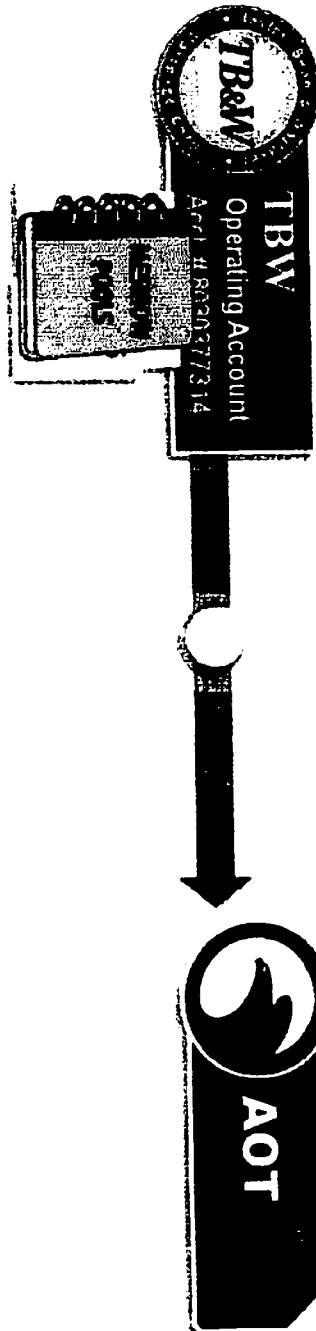
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Ledger ID: ACTUAL

- ^ Indicates the period entered is different from the period posted.
- Indicates there are no GL transactions to support summarized AcctHist period activity.
- ** Indicates the calculated period ending balance does not match the YTD balance on AcctHist.
- *** Indicates the calculated account balance does not match the account balance on AcctHist.
- # Indicates Assets do not match Liabilities or Net Income does not equal the YTD Net Income account.

AOT Transaction on April 17, 2007

Mesirow Pools
sold to AOT.



125A

20-30

AOT Transaction on April 17, 2007

● AOT wires
\$15,000,000 to TBW
Operating Account.

TB&W
TBW
Operating Account
Accl. # 8030377314



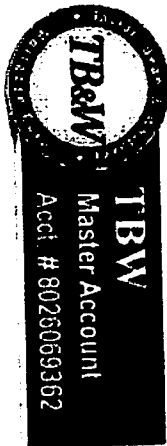
AOT
\$15,000,000

AOT Transaction on April 17, 2007

● TBW transfers
\$15,000,000 to its
Master Account.

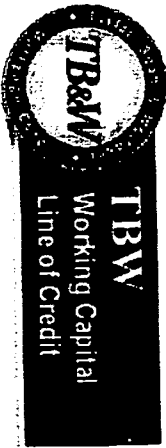
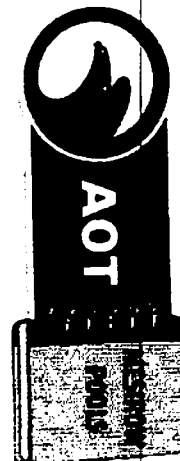


\$15,000,000



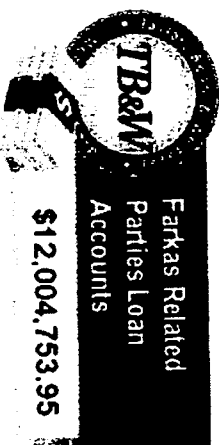
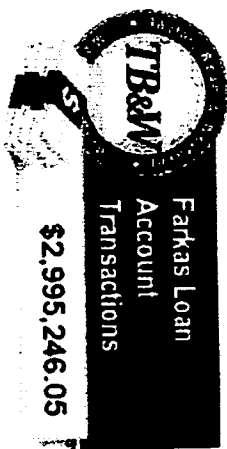
AOT Transaction on April 17, 2007

● TBW transfers
\$15,000,000 to its
Working Capital Line
of Credit.



AOT Transaction on April 17, 2007

Farkas
transfers amounts to
various accounts.



AOT Transaction on April 17, 2007

Mesirow Pools
sold to AOT.

Category	145 Loans		
	Loan Count	Purchase Amount	Loan Collateral Amount
Active Loans	7	\$ 879,967	\$ 879,967
REO	33	3,171,398	3,171,398
Double Sold	105	11,387,348	X
Lee Loans			X
Paid in Full	-	-	X
Charge-Off	-	-	X
Not in Servicing	-	-	X
Total	145	\$ 15,438,713	\$ 4,051,365

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Company: TBWMC

Periods: 01-03 Through 05-10 As of: 8/3/2010 Ledger ID: ACTUAL

Jnl	Tran	Bat	Ext Ref /	Reference	Tran	Tran	Beginning	Debit	Credit	Ending
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance
Acct:	20210	N/R - Lee B Farkas			Sub:	00-00000-0000000000	Default			
A	GJ	GL	017925		RECLASS	6/9/2004	TRANS TO 20704	0.00	11,235.87	
A	GJ	GL	017925		RECLASS	6/9/2004	TRANS TO 20705	0.00	15,078.90	
A	GJ	GL	017927		REVERSE	6/9/2004	TO REVERSE B# 017925	11,235.87	0.00	
A	GJ	GL	017927		REVERSE	6/9/2004	TO REVERSE B# 017925	15,078.90	0.00	
Period	01-04	Total					0.00	26,314.77	26,314.77	0.00
Period	02-04	Total					0.00	0.00	0.00	0.00
Period	03-04	Total					0.00	0.00	0.00	0.00
Period	04-04	Total					0.00	0.00	0.00	0.00
Period	05-04	Total					0.00	0.00	0.00	0.00
Period	06-04	Total					0.00	0.00	0.00	0.00
A	GJ	GL	015567		SEE NOV NK	12/9/2003	See P sec in Nov notebk	2,344.75	0.00	
Period	07-04	Total					0.00	2,344.75	0.00	2,344.75
GJ	GL	015574		12/05/03	12/5/2003	Red 9#127051 Bankcard-0280951		2,344.75	0.00	
GJ	GL	015644		12/11/03	12/11/2003	Lee Signed Note Wire from SoTr		50,000.00	0.00	
GJ	GL	015727		12/19/03	12/19/2003	Wire W. Boyce PA - Coda Deal		696,511.78	0.00	
GJ	GL	015568		SEE NOV NK	12/1/2003	See P sec in Nov notebk		0.00	2,344.75	
AP	VO	129831	16162	331529	12/22/2003	Foliage Design-16162		160.64	0.00	
AP	VO	129994	12-11-3 stmt	331788	12/23/2003	Amex 12-11-3 Coda portion		6,445.40	0.00	
AP	VO	130720	12-18-3 stmt	333718	12/30/2003	Amex Cent 12-18-3 Coda		2,961.32	0.00	
AP	VO	130734	12-8-3 stmt	333728	12/31/2003	Advanta 12-8-3 stmt		107.98	0.00	
Period	08-04	Total					2,344.75	758,531.87	2,344.75	758,531.87
GJ	GL	016072		1/22	1/22/2004	TBW-NADA Trust-Credit Cards		0.00	22,496.33	
A	GJ	GL	016221		SEE JAN NB	2/4/2004	SEE JAN NOTEBOOK H-7	12,981.63	0.00	
A	GJ	GL	016506		SEE JAN NB	2/25/2004	SEE JAN NOTEBOOK F-1	476,353.88	0.00	
AP	VO	131737	4/0691400021	338136	1/13/2004	Bankcard #4606914000289951		271.32	0.00	
AP	VO	132388	16348	337450	1/20/2004	Foliage Design-16348		160.64	0.00	
AP	VO	132620	1-11-4 stmt	338137	1/21/2004	Amex Platinum Coda 1-11-4		9,843.95	0.00	
AP	VO	133569	1-19-4 stmt	340192	1/29/2004	Amex Cent 1-19-4 Roberson		4,114.83	0.00	
Period	09-04	Total					758,531.87	503,726.25	22,496.33	1,239,761.79
GJ	GL	016380		2/17/04	2/17/2004	Trans to No. Tr Bank of FI		100,000.00	0.00	
GJ	GL	016434		2/20/04	2/20/2004	C. Roberson Prudential Sec		200,000.00	0.00	

**GOVERNMENT
EXHIBIT**

**20-1
1:10CR200**

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Periods: 01-03 Through 05-10 As of: 8/3/2010 Ledger ID: ACTUAL

Jml	Tran	Bat	Ext Ref I	Reference	Tran	Tran	Beginning	Debit	Credit	Ending	
Type	Type	Nbr	Loan Nbr	Nbr	Date	Description	Balance	Amount	Amount	Balance	
					Period	11-07	Total	7,016,759.47	880,067.02	4,376,858.62	3,519,967.87
GJ	GL	036130		04-17-7	4/17/2007	Wire into 10732		0.00	15,000,000.00		
^ GJ	GL	037424		1/31/2007	1/31/2007	Lee's Dec 06 comm pd Jan 07		0.00	20,000.00		
^ GJ	GL	037424		10/31/2006	10/31/2006	Lee's Sep 06 comm pd Oct 06		0.00	20,000.00		
^ GJ	GL	037241		11/30/2006	11/30/2006	Reverse dividend accrual		0.00	22,508.36		
^ GJ	GL	037424		11/30/2006	11/30/2006	Lee's Oct 06 comm pd Nov 06		0.00	20,000.00		
^ GJ	GL	037424		12/31/2006	12/31/2006	Lee's Nov 06 comm pd Dec 06		0.00	20,000.00		
^ GJ	GL	037424		2/28/2007	2/28/2007	Lee's Jan 07 comm pd Feb 07		0.00	20,000.00		
^ GJ	GL	037424		3/31/2007	3/31/2007	Lee's Feb 07 comm pd Mar 07		0.00	20,000.00		
GJ	GL	036238		4/24/2007	4/24/2007	Trans to Triple Point Const		134,740.61	0.00		
GJ	GL	035811		4/3/2007	4/3/2007	LBF Term Loan Principal Pymt		2,437,406.42	0.00		
GJ	GL	035811		4/3/2007	4/3/2007	LBF Int Due for 1st Payment		763,011.80	0.00		
^ GJ	GL	037242		4/3/2007	4/3/2007	Purchase shares from LBF		0.00	3,200,418.22		
GJ	GL	036472		4/30/07	4/30/2007	Wire Out		5,638.14	0.00		
^ GJ	GL	037424		4/30/2007	4/30/2007	Lee's Mar 07 comm pd Apr 07		0.00	20,000.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 20704 Thunderflowe		6,164,529.41	0.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 20180 CPMG		177,911.96	0.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 20185 Chisholm		219,812.38	0.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 20712 Citrus Land		828,557.17	0.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 20714 Clear Title		92,616.85	0.00		
^ GJ	GL	037459		4/30/2007	4/30/2007	Transfer to 31019 Compass		4,521,326.18	0.00		
^ GJ	GL	037477		4/30/2007	4/30/2007	Transfer to 20709 24/7 Call Ca		1,651,690.54	0.00		
^ GJ	GL	037477		4/30/2007	4/30/2007	Transfer to 22160 Nada Airline		900,000.00	0.00		
^ GJ	GL	037477		4/30/2007	4/30/2007	Transfer to 31018 New Technolo		1,969,635.64	0.00		
^ GJ	GL	037480		4/30/2007	4/30/2007	Transfer to 20709 24/7 Call Ca		900,000.00	0.00		
^ GJ	GL	037480		4/30/2007	4/30/2007	Transfer to 22160 Nada Airline		1,651,690.54	0.00		
^ GJ	GL	037424		9/30/2006	9/30/2006	Lee's Aug 06 comm pd Sep 06		0.00	20,000.00		
^ GJ	GL	037384		APR SEC I	4/30/2007	Accrue Apr 07 interest 20210		11,572.50	0.00		
^ GJ	GL	036948		RECLASS	4/18/2007	AMEX-Due From AirNokomis		0.00	559.04		
^ GJ	GL	036948		RECLASS	4/18/2007	AMEX-Due From AirNokomis		0.00	208.00		
^ GJ	GL	036948		RECLASS	4/26/2007	AMEX - Herzberger		0.00	160.00		
^ GJ	GL	036857		RECLASS	4/30/2007	James Nelson - 1/20/06 advance		0.00	475.00		
^ GJ	GL	036957		RECLASS	4/30/2007	J Moore-Sharehold Amend Tax		0.00	1,250.00		
^ GJ	GL	036957		RECLASS	4/30/2007	GE Capital Fin PCard-D Huston		0.00	674.00		

Date: Tuesday, August 03, 2010
Time: 05:16PM
User: SYSADMIN

Taylor Bean & Whitaker
Detail General Ledger - Standard

Page: 24 of 54
Report: 01620.rpt
Company: TBWMC

Periods: 01-03 Through 05-10 As of: 8/3/2010 Ledger ID: ACTUAL

Jml Type	Tran Type	Bat Nbr	Ext Ref / Loan Nbr	Reference Nbr	Tran Date	Tran Description	Beginning Balance	Debit Amount	Credit Amount	Ending Balance
^ GJ	GL	036957		RECLASS	4/30/2007	Wire to Camp Nokomis		0.00	3,058.97	
^ GJ	GL	036957		RECLASS	4/30/2007	Amex - Lee Air Nokomis		0.00	14.85	
^ GJ	GL	036957		RECLASS	4/30/2007	Amex - Scott Hager		0.00	214.84	
^ GJ	GL	036957		RECLASS	4/30/2007	Lee - Scott Hager		0.00	16,534.86	
^ GJ	GL	036959		RECLASS	4/30/2007	Deposit Magnolia Street Fund I		0.00	2,500.00	
^ GJ	GL	036959		RECLASS	4/30/2007	Deposit Magnolia Street Fund I		0.00	2,500.00	
^ GJ	GL	036959		RECLASS	4/30/2007	Deposit Magnolia Street Fund I		0.00	90.00	
^ GJ	GL	036961		RECLASS	3/28/2007	Trans to Citrus Land Title		0.00	380,741.12	
^ GJ	GL	037326		RECLASS	3/1/2007	Angle Clifton/US Racing LLC		0.00	150,000.00	
^ GJ	GL	037427		RECLASS	5/26/2006	Wire from Central Bus Jets Inc		0.00	1,600.00	
^ GJ	GL	037477		REVERSE	4/30/2007	Transfer to 31019 Compass		0.00	4,521,326.18	
^ GJ	GL	037480		REVERSE	4/30/2007	Transfer to 20709 24/7 Call Ca		0.00	1,651,690.54	
^ GJ	GL	037480		REVERSE	4/30/2007	Transfer to 22160 Nada Airline		0.00	900,000.00	
AP	VO	266661	04/10/07stmr	738245	4/18/2007	AMEX-Due From AirNokomis		559.04	0.00	
AP	VO	266661	04/10/07stmr	738245	4/18/2007	AMEX-Due From AirNokomis		208.00	0.00	
AP	VO	267781	04/18/07stmr	741022	4/25/2007	AMEX - Lee F		14.85	0.00	
AP	VO	267780	120	741024	4/25/2007	Solar Trek		203.45	0.00	
AP	VO	267780	Nada	741027	4/25/2007	Roberson Co.		15,270.63	0.00	
AP	VO	267965	05/11/07stmr	741612	4/26/2007	AMEX - Herzberger		160.00	0.00	
AP	VO	268316	PP109	742408	4/30/2007	SPP-Paul R. Allen-Memo Foo		50,000.00	0.00	
Period 12-07 Total							3,519,967.87	22,496,656.11	26,016,523.99	0.00
GJ	GL	037071	ck 235642111	05-23-7	5/23/2007	From Quality Title		0.00	10,410.92	
GJ	GL	036822		5/14/07	5/14/2007	Wire from Wachovia Inv 1404		108,543.52	0.00	
GJ	GL	037072		5/23/2007	5/23/2007	Jeff Strick		6,012.65	0.00	
GJ	GL	036960		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		2,500.00	0.00	
GJ	GL	036960		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		2,500.00	0.00	
GJ	GL	036960		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		90.00	0.00	
^ GJ	GL	038403		RECLASS	5/3/2007	Nada Airline		0.00	1,585.19	
^ GJ	GL	038411		RECLASS	3/22/2007	Geoffrey Marshall-New Bldg-ME		7,711.24	0.00	
^ GJ	GL	038411		RECLASS	3/22/2007	Geoffrey Marshall-Constr-ME		4,897.15	0.00	
^ GJ	GL	038444		RECLASS	1/23/2007	FL Corp File - Upload		0.00	50.00	
^ GJ	GL	038444		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		0.00	2,500.00	
^ GJ	GL	038444		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		0.00	2,500.00	
^ GJ	GL	038444		RECLASS	5/1/2007	Deposit Magnolia Street Fund I		0.00	90.00	



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Commercial Checking

ACCOUNT NUMBER 8030377314
STATEMENT PERIOD April 1, 2007 - April 30, 2007

00001 EPO

Colonial Bank appreciates
your business. Thank you
for being our customer

TAYLOR BEAN & WHITAKER MTG CORP
OPERATING ACCOUNT
101 NE 2ND ST
OCALA FL 34470

Account Summary

Previous Balance	\$ 1,484,407.16	Average Collected Balance	\$ 884,185.20
Total Credit(s)	+ 51,554,360.86		
Total Debit(s)	- 53,038,955.04		
Service Charge	- 0.00		
Ending Balance	- \$ 187.02		

Account Details

Deposits and Other Credits

DATE	DESCRIPTION	AMOUNT
4/2	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	822,768.99
4/2	DEPOSIT	29,923.02
4/2	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	4,268.74
4/3	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	3,204,931.88
4/3	DEPOSIT	39,192.77
4/3	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	23,218.85
4/4	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	1,023,759.66
4/4	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	27,430.36
4/4	DEPOSIT	20,775.35
4/5	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	329,820.25
4/5	DEPOSIT	60,076.99
4/5	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	15,250.17

GOVERNMENT
EXHIBIT

20-7

DOJ-OTZ-031A 03907347

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Commercial Checking

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ACCOUNT NUMBER 8030377314

STATEMENT PERIOD April 1, 2007 - April 30, 2007

Deposits and Other Credits (continued)

DATE	DESCRIPTION	AMOUNT
4/6	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	1,023,282.02
4/6	DEPOSIT	64,031.45
4/6	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	22,335.92
4/6	DEPOSIT	19,408.15
4/9	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	1,212,567.69
4/9	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	13,134.20
4/10	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	1,842,010.15
4/10	DEPOSIT	29,723.28
4/10	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	1,833.72
4/11	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	103,098.40
4/11	DEPOSIT	34,140.54
4/11	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	32,899.24
4/12	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	377,647.81
4/12	INCOMING WIRE CREDIT TAYLOR BEAN AND WHITAKER MORTGAGE C	100,000.00
4/12	DEPOSIT	32,742.20
4/12	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	27,598.83
4/13	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	327,845.88
4/13	ACH CCD/CTX CREDIT MORTGAGE WAREHOU ACCT TRANS FROM 8026068362	300,000.00
4/13	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	19,302.50
4/13	DEPOSIT	15,208.18
4/16	INCOMING WIRE CREDIT TAYLOR BEAN & WHITAKER MORTGAG	2,000,000.00
4/16	INCOMING WIRE CREDIT TAYLOR BEAN AND WHITAKER MORTGAGE C	1,000,000.00
4/16	DEPOSIT	33,747.58
4/16	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 80303773	19,874.84
4/17	CREDIT MEMO	15,000,000.00
4/17	ACH ORIGINATION CREDIT TAYLORBEAN (XFR) TRANSFER 8030377314	2,604,209.83
4/17	ACH CCD/CTX CREDIT MORTGAGE WAREHOU ACCT TRANS FROM 8026068362	1,600,000.00



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Commercial Checking

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ACCOUNT NUMBER 8030377314
STATEMENT PERIOD April 1, 2007 - April 30, 2007

Other Debits (continued)

DATE	DESCRIPTION	AMOUNT
4/17	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO58M2C21	2,107.00
4/17	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO58LP731	1,827.50
4/18	RET ITEM CHGBK	700.00
4/18	ACH CCD/CTX DEBIT MORTGAGE WAREHOUS ACCT TRANS TO 8026069362	15,000,000.00
4/18	ACH DEBIT TAYLORBEAN (XFR) TRANSFER 8030377314	944,870.89
4/18	ACH DEBIT COLONIAL BANK DISP XFER DISBURSMENT	437,434.88
4/18	ACH CCD/CTX DEBIT METLIFE METLIFE 800001448110	66,349.64
4/18	ACH CCD/CTX DEBIT HUD NEW PURCHASE COF DEBIT 000007499100008	53,784.23
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TONGA1	4,923.50
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TP3MU1	4,522.50
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOKEL1	4,439.75
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOHDO1	4,300.00
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOEBB1	3,693.50
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOQHV1	2,429.50
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOB9M1	2,083.35
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TOTJK1	1,995.00
4/18	ACH CCD/CTX DEBIT VETERANS AFFAIRS PAYMENT 8ICO9TP0L91	1,827.50
4/19	RET ITEM CHGBK	81.09
4/19	ACH DEBIT COLONIAL BANK DISP XFER DISBURSMENT	502,914.21
4/19	ACH DEBIT TAYLORBEAN (XFR) TRANSFER 8030377314	85,391.01
4/19	ACH CCD/CTX DEBIT HUD NEW PURCHASE COF DEBIT 000007499100008	65,111.31
4/19	ACH CCD/CTX DEBIT FEDERAL EXPRESS DEBIT MMA01163453	6,553.35
4/20	RET ITEM CHGBK	142.44
4/20	ACH DEBIT COLONIAL BANK DISP XFER DISBURSMENT	843,151.01



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Commercial Checking

ACCOUNT NUMBER 8030377314

STATEMENT PERIOD April 1, 2007 - April 30, 2007

Credit Checking Account		Colonial Bank		Page 18 of 18	
WE CREDIT YOUR ACCOUNT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.					
Account Number: 8030377314					
Statement Date: 04/17/07					
Statement Period: 04/01/07 - 04/30/07					
Check Number		Date		Amount	
7710 0100		04/17/07		\$15,000,000.00	
Account Number		Check Number		Amount	
8030377314		7710 0100		\$15,000,000.00	
ETX 04/17/07		8030377314		/1500000000	

Ck# Date 04/17/2007 \$15,000,000.00

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[illegible]

**GOVERNMENT
EXHIBIT
20-7A
I:10CR200**

TBW Loan #	Property Address	Loan Date	"Borrower"	Loan Amount	Lending Facility	Loan Payments?	Comments
1 477897	4650 SW 7th Ave. Ocala, FL 34474	10/31/2003	John Welch	\$295,000	On Colonial AOT	Not in Servicing	Farkas purchased the property from John Welch for \$750,000 on 10/31/2003.
2 477905	916 SE Ft. King St. Ocala, FL 34470	11/3/2003	John F. Welch	\$280,000	On Colonial AOT	Not in Servicing	Property is Welch's law office and has had no mortgage since 2002.
3 477907	4500 SW 7th Ave. Ocala, FL 34474	10/31/2003	John F. Welch	\$170,000	On Colonial AOT	Not in Servicing	Property does not exist.
			Welch Total:	\$745,000			
4 552225	2014 NE 18th St. Ft. Lauderdale, FL 33308	3/26/2004	Raymond J. Dragani	\$315,000	On Colonial AOT	None	
5 552226	2022 NE 18th St. Ft. Lauderdale, FL 33308	3/26/2004	Raymond Dragani	\$315,000	On Colonial AOT	None	Thunderflower (a Farkas entity) purchased these four properties (and a business) from Dragani for \$1,285,000 with cash on the same day these loans were originated in Dragani's name.
6 552227	2019 NE 18th St. Ft. Lauderdale, FL 33308	3/26/2004	Raymond Dragani	\$315,000	On Colonial AOT	None	
7 552228	2024 NE 18th St. Ft. Lauderdale, FL 33308	3/26/2004	Raymond J. Dragani	\$315,000	On Colonial AOT	None	
			Dragani Total:	\$1,260,000			
8 612304	1123 Soundview Trail Gulf Breeze, FL 32571	8/16/2004	Benjamin J. Charles	\$433,333	On Colonial AOT	Yes	Charles and Farkas purchased the property for \$1,300,000 on 8/16/2004.
9 623420	1124 Soundview Trail Gulf Breeze, FL 32571	8/16/2004	Lee Farkas	\$300,000	On Colonial AOT	None	Neither Farkas nor Charles has ever had any ownership of this property.
10 623425	1125 Soundview Trail Gulf Breeze, FL 32571	8/16/2004	Lee Farkas	\$300,000	On Colonial AOT	None	Neither Farkas nor Charles has ever had any ownership of this property.
11 623426	1126 Soundview Trail Gulf Breeze, FL 32571	8/16/2004	Lee Farkas	\$300,000	On Colonial AOT	None	Property does not exist.
			Soundview Total:	\$1,333,333			
12 1506247	4870 SW 63rd Loop, Unit A Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	
13 1506249	4870 SW 63rd Loop, Unit B Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	
14 1506250	4870 SW 63rd Loop, Unit C Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	
15 1506251	4870 SW 63rd Loop, Unit D Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	Property is a small clubhouse for a home owners' association; there are no Units A-G.
16 1506254	4870 SW 63rd Loop, Unit F Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	Proceeds of \$2,674,000 were used to make a payment on Farkas jet.
17 1506255	4870 SW 63rd Loop, Unit E Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	
18 1506269	4870 SW 63rd Loop, Unit G Ocala, FL	11/30/2006	Lee Farkas	\$382,000	WaMu, then Colonial Working Capital	Not in Servicing	
			63rd Loop Total:	\$2,674,000			

GOVERNMENT
EXHIBIT
19-124
1:10CR200

§ 853. Criminal forfeitures, 21 USCA § 853

KeyCite Yellow Flag - Negative Treatment
Unconstitutional or Preempted Prior Version's Validity Called into Doubt by U.S. v. Riedl, D. Hawaii, Oct 11, 2001

KeyCite Yellow Flag - Negative Treatment Proposed Legislation

United States Code Annotated

Title 21. Food and Drugs (Refs & Annos)

Chapter 13. Drug Abuse Prevention and Control (Refs & Annos)

Subchapter I. Control and Enforcement

Part D. Offenses and Penalties

21 U.S.C.A. § 853

§ 853. Criminal forfeitures

Effective: December 1, 2009
Currentness

(a) Property subject to criminal forfeiture

Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law--

- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and
- (3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) Meaning of term "property"

Property subject to criminal forfeiture under this section includes--

- (1) real property, including things growing on, affixed to, and found in land; and
- (2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

(c) Third party transfers

All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently

§ 853. Criminal forfeitures, 21 USCA § 853

transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(d) Rebuttable presumption

There is a rebuttable presumption at trial that any property of a person convicted of a felony under this subchapter or subchapter II of this chapter is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that--

(1) such property was acquired by such person during the period of the violation of this subchapter or subchapter II of this chapter or within a reasonable time after such period; and

(2) there was no likely source for such property other than the violation of this subchapter or subchapter II of this chapter.

(e) Protective orders

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section--

(A) upon the filing of an indictment or information charging a violation of this subchapter or subchapter II of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that--

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than fourteen days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

§ 853. Criminal forfeitures, 21 USCA § 853

(4) Order to repatriate and deposit

(A) In general

Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

(B) Failure to comply

Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p) of this section, shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.

(f) Warrant of seizure

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (e) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(g) Execution

Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(h) Disposition of property

Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

(i) Authority of the Attorney General

With respect to property ordered forfeited under this section, the Attorney General is authorized to--

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this subchapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) compromise claims arising under this section;

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(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, in accordance with the provisions of section 881(e) of this title, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(j) Applicability of civil forfeiture provisions

Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 881(d) of this title shall apply to a criminal forfeiture under this section.

(k) Bar on intervention

Except as provided in subsection (n) of this section, no party claiming an interest in property subject to forfeiture under this section may--

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(l) Jurisdiction to enter orders

The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(m) Depositions

In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(n) Third party interests

(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition

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of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that--

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(o) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(p) Forfeiture of substitute property

(1) In general

Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant--

(A) cannot be located upon the exercise of due diligence;

(B) has been transferred or sold to, or deposited with, a third party;

(C) has been placed beyond the jurisdiction of the court;

(D) has been substantially diminished in value; or

(E) has been commingled with other property which cannot be divided without difficulty.

(2) Substitute property

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In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

(3) Return of property to jurisdiction

In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.

(q) Restitution for cleanup of clandestine laboratory sites

The court, when sentencing a defendant convicted of an offense under this subchapter or subchapter II of this chapter involving the manufacture, the possession, or the possession with intent to distribute, of amphetamine or methamphetamine, shall--

(1) order restitution as provided in sections 3612 and 3664 of Title 18;

(2) order the defendant to reimburse the United States, the State or local government concerned, or both the United States and the State or local government concerned for the costs incurred by the United States or the State or local government concerned, as the case may be, for the cleanup associated with the manufacture of amphetamine or methamphetamine by the defendant, or on premises or in property that the defendant owns, resides, or does business in; and

(3) order restitution to any person injured as a result of the offense as provided in section 3663A of Title 18.

Credits

(Pub.L. 91-513, Title II, § 413, as added Pub.L. 98-473, Title II, § 303, Oct. 12, 1984, 98 Stat. 2044, and amended Pub.L. 98-473, Title II, § 2301(d)-(f), Oct. 12, 1984, 98 Stat. 2192, 2193; Pub.L. 99-570, Title I, §§ 1153(b), 1864, Oct. 27, 1986, 100 Stat. 3207-13, 3207-54; Pub.L. 104-237, Title II, § 207, Oct. 3, 1996, 110 Stat. 3104; Pub.L. 106-310, Div. B, Title XXXVI, § 3613(a), Oct. 17, 2000, 114 Stat. 1229; Pub.L. 107-56, Title III, § 319(d), Oct. 26, 2001, 115 Stat. 314; Pub.L. 109-177, Title VII, § 743(a), Mar. 9, 2006, 120 Stat. 272; Pub.L. 111-16, § 5, May 7, 2009, 123 Stat. 1608.)

Notes of Decisions (365)

Current through P.L. 112-17 approved 6-1-11

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United States Code Annotated

Federal Rules of Criminal Procedure for the United States District Courts (Refs & Annos)

VII. Post-Conviction Procedures

Federal Rules of Criminal Procedure, Rule 32.2

Rule 32.2. Criminal Forfeiture

Currentness

(a) **Notice to the Defendant.** A court must not enter a judgment of forfeiture in a criminal proceeding unless the indictment or information contains notice to the defendant that the government will seek the forfeiture of property as part of any sentence in accordance with the applicable statute. The notice should not be designated as a count of the indictment or information. The indictment or information need not identify the property subject to forfeiture or specify the amount of any forfeiture money judgment that the government seeks.

(b) **Entering a Preliminary Order of Forfeiture.**

(1) **Forfeiture Phase of the Trial.**

(A) **Forfeiture Determinations.** As soon as practical after a verdict or finding of guilty, or after a plea of guilty or nolo contendere is accepted, on any count in an indictment or information regarding which criminal forfeiture is sought, the court must determine what property is subject to forfeiture under the applicable statute. If the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense. If the government seeks a personal money judgment, the court must determine the amount of money that the defendant will be ordered to pay.

(B) **Evidence and Hearing.** The court's determination may be based on evidence already in the record, including any written plea agreement, and on any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable. If the forfeiture is contested, on either party's request the court must conduct a hearing after the verdict or finding of guilty.

(2) **Preliminary Order.**

(A) **Contents of a Specific Order.** If the court finds that property is subject to forfeiture, it must promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment, directing the forfeiture of specific property, and directing the forfeiture of any substitute property if the government has met the statutory criteria. The court must enter the order without regard to any third party's interest in the property. Determining whether a third party has such an interest must be deferred until any third party files a claim in an ancillary proceeding under Rule 32.2(c).

(B) **Timing.** Unless doing so is impractical, the court must enter the preliminary order sufficiently in advance of sentencing to allow the parties to suggest revisions or modifications before the order becomes final as to the defendant under Rule 32.2(b)(4).

(C) **General Order.** If, before sentencing, the court cannot identify all the specific property subject to forfeiture or calculate the total amount of the money judgment, the court may enter a forfeiture order that:

(i) lists any identified property;

(ii) describes other property in general terms; and

(iii) states that the order will be amended under Rule 32.2(e)(1) when additional specific property is identified or the amount of the money judgment has been calculated.

(3) Seizing Property. The entry of a preliminary order of forfeiture authorizes the Attorney General (or a designee) to seize the specific property subject to forfeiture; to conduct any discovery the court considers proper in identifying, locating, or disposing of the property; and to commence proceedings that comply with any statutes governing third-party rights. The court may include in the order of forfeiture conditions reasonably necessary to preserve the property's value pending any appeal.

(4) Sentence and Judgment.

(A) When Final. At sentencing--or at any time before sentencing if the defendant consents--the preliminary forfeiture order becomes final as to the defendant. If the order directs the defendant to forfeit specific property, it remains preliminary as to third parties until the ancillary proceeding is concluded under Rule 32.2(c).

(B) Notice and Inclusion in the Judgment. The court must include the forfeiture when orally announcing the sentence or must otherwise ensure that the defendant knows of the forfeiture at sentencing. The court must also include the forfeiture order, directly or by reference, in the judgment, but the court's failure to do so may be corrected at any time under Rule 36.

(C) Time to Appeal. The time for the defendant or the government to file an appeal from the forfeiture order, or from the court's failure to enter an order, begins to run when judgment is entered. If the court later amends or declines to amend a forfeiture order to include additional property under Rule 32.2(e), the defendant or the government may file an appeal regarding that property under Federal Rule of Appellate Procedure 4(b). The time for that appeal runs from the date when the order granting or denying the amendment becomes final.

(5) Jury Determination.

(A) Retaining the Jury. In any case tried before a jury, if the indictment or information states that the government is seeking forfeiture, the court must determine before the jury begins deliberating whether either party requests that the jury be retained to determine the forfeitability of specific property if it returns a guilty verdict.

(B) Special Verdict Form. If a party timely requests to have the jury determine forfeiture, the government must submit a proposed Special Verdict Form listing each property subject to forfeiture and asking the jury to determine whether the government has established the requisite nexus between the property and the offense committed by the defendant.

(6) Notice of the Forfeiture Order.

(A) Publishing and Sending Notice. If the court orders the forfeiture of specific property, the government must publish notice of the order and send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

(B) Content of the Notice. The notice must describe the forfeited property, state the times under the applicable statute when a petition contesting the forfeiture must be filed, and state the name and contact information for the government attorney to be served with the petition.

(A) is subject to forfeiture under an existing order of forfeiture but was located and identified after that order was entered; or

(B) is substitute property that qualifies for forfeiture under an applicable statute.

(2) **Procedure.** If the government shows that the property is subject to forfeiture under Rule 32.2(e)(1), the court must:

(A) enter an order forfeiting that property, or amend an existing preliminary or final order to include it; and

(B) if a third party files a petition claiming an interest in the property, conduct an ancillary proceeding under Rule 32.2(c).

(3) **Jury Trial Limited.** There is no right to a jury trial under Rule 32.2(e).

Credits

(Added Apr. 17, 2000, eff. Dec. 1, 2000, and amended Apr. 29, 2002, eff. Dec. 1, 2002; Mar. 26, 2009, eff. Dec. 1, 2009.)

Editors' Notes

ADVISORY COMMITTEE NOTES

2000 Adoption

Rule 32.2 consolidates a number of procedural rules governing the forfeiture of assets in a criminal case. Existing Rules 7(c)(2), 31(e) and 32(d)(2) are also amended to conform to the new rule. In addition, the forfeiture-related provisions of Rule 38(e) are stricken.

Subdivision (a). Subdivision (a) is derived from Rule 7(c)(2) which provides that notwithstanding statutory authority for the forfeiture of property following a criminal conviction, no forfeiture order may be entered unless the defendant was given notice of the forfeiture in the indictment or information. As courts have held, subdivision (a) is not intended to require that an itemized list of the property to be forfeited appear in the indictment or information itself. The subdivision reflects the trend in caselaw interpreting present Rule 7(c). Under the most recent cases, Rule 7(c) sets forth a requirement that the government give the defendant notice that it will be seeking forfeiture in accordance with the applicable statute. It does not require a substantive allegation in which the property subject to forfeiture, or the defendant's interest in the property, must be described in detail. *See United States v. DeFries*, 129 F.3d 1293 (D.C.Cir. 1997) (it is not necessary to specify in either the indictment or a bill of particulars that the government is seeking forfeiture of a particular asset, such as the defendant's salary; to comply with Rule 7(c), the government need only put the defendant on notice that it will seek to forfeit everything subject to forfeiture under the applicable statute, such as all property "acquired or maintained" as a result of a RICO violation). *See also United States v. Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660, 665 (4th Cir. 1996), *aff'd* 846 F.Supp. 463 (E.D. Va. 1994) (*Moffitt I*) (indictment need not list each asset subject to forfeiture; under Rule 7(c), this can be done with bill of particulars); *United States v. Voigt*, 89 F.3d 1050 (3rd Cir. 1996) (court may amend order of forfeiture at any time to include substitute assets).

Subdivision (b). Subdivision (b) replaces Rule 31(e) which provides that the jury in a criminal case must return a special verdict "as to the extent of the interest or property subject to forfeiture." *See United States v. Saccoccia*, 58 F.3d 754 (1st Cir. 1995) (Rule 31(e) only applies to jury trials; no special verdict required when defendant waives right to jury on forfeiture issues).

One problem under Rule 31(e) concerns the scope of the determination that must be made prior to entering an order of forfeiture. This issue is the same whether the determination is made by the court or by the jury.